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**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
 ) MUR 4547  
Clinton/Gore '96 Primary Committee, Inc. )  
and Joan Pollitt, as Treasurer )

**CONCILIATION AGREEMENT**

This matter was initiated by a signed, sworn, and notarized complaint by Robert D.

Fulkerson. The Commission found probable cause to believe that the Clinton/Gore '96 Primary Committee, Inc. and Joan Pollitt, as treasurer ("Clinton/Gore '96" or "Respondents") violated 2 U.S.C. §§ 441a(f) and 441f.

NOW, THEREFORE, the Commission and the Respondents, having duly entered into conciliation pursuant to 2 U.S.C. § 437g(4)(A)(i), do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding.

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. At all times relevant to this agreement, Clinton/Gore '96 was an authorized political committee within the meaning of 2 U.S.C. §§ 431(4) and (6).

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2. Joan Pollitt is the treasurer of Clinton/Gore '96.

3. It is unlawful for an individual to make contributions to any candidate and his authorized political committee with respect to any election for Federal office, which, in the aggregate, exceed \$1,000. 2 U.S.C. § 441a(a)(1)(A). Likewise, no candidate or authorized committee of a candidate shall knowingly accept a contribution from any individual with respect to any election for Federal office which, in the aggregate, exceeds \$1,000. 2 U.S.C. § 441a(f).

4. No person shall make a contribution in the name of another person or knowingly permit his or her name to be used to effect such a contribution, and no committee shall knowingly accept a contribution made by one person in the name of another person. 2 U.S.C. § 441f.

5. The Commission's regulations provide that if a political committee treasurer in exercising his or her responsibilities under 11 C.F.R. § 103.3(b) determined that at the time a contribution was received and deposited, it did not appear to be made in the name of another, but later discovers that it is illegal based on new evidence not available to the political committee at the time of receipt and deposit, the treasurer shall refund the contribution to the contributor within thirty days of the date on which the illegality is discovered. 11 C.F.R. § 103.3(b)(2). If the political committee does not have sufficient funds to refund the contribution at the time the illegality is discovered, the political committee shall make the refund from the next funds it receives. Id. In Advisory Opinion 1996-5, the Commission determined that a guilty plea served as notice to a political committee that it had received prohibited contributions, and that an alternative remedy to cure the prohibited contribution was to disgorge an amount equal to the prohibited contributions to the United States Treasury within 30 days.

6. In 1995, Chien Chuen "Johnny" Chung ("Chung"), a resident of California, became a member of the Clinton/Gore '96 Southern California Finance Committee and committed to raise \$100,000 in contributions.

7. In connection with a September 21, 1995 DNC fund-raising dinner in Century City, California, Kimberly Ray ("Ray"), Southern California Finance Director for Clinton/Gore '96, wrote to Chung in August and September, reminding him of his \$100,000 fundraising commitment made to Terry McAuliffe, Clinton/Gore '96's National Finance Chair and of his need to secure commitments for this dinner.

8. Chung brought 20 guests to the September 21, 1995 event and attempted to pay for them with a \$25,000 check made out to the DNC. Karen Sternfeld ("Sternfeld"), Deputy Finance Director for Southern California for Clinton/Gore '96, told Chung at the time that she could not accept that check, and that Clinton/Gore '96 needed individual contributions from his guests. She also told Chung that contributions to Clinton/Gore '96 were limited to \$1,000 per individual. Chung told Sternfeld that he would messenger the checks or Irene Wu ("Wu"), an employee of Chung, would bring them the next day.

9. Sternfeld called Wu the morning after the September 21, 1995 event, and told Wu that Chung had given a check that Clinton/Gore '96 could not accept, and that Clinton/Gore '96 still needed individual checks for the event. Wu told Sternfeld that all the guests had left, and she could not get the individual checks anymore. Sternfeld responded that the contributors did not necessarily have to be the same people that attended the event. Sternfeld told Wu that she and others from Clinton/Gore '96 would be at a restaurant after 5:00 p.m. that evening, and that Wu could deliver the checks to her there.

10. At Chung's direction, Wu, with the assistance of others, collected from twenty individuals \$1,000 checks that were made out to Clinton/Gore '96. Then Chung had an

employee deliver \$1,000 in cash to each of the twenty individuals to reimburse them for the checks they had written to Clinton/Gore '96.

11. In accordance with her telephone conversation with Sternfeld in the morning on September 22, 1995, Wu met Sternfeld, Ray, and others at a restaurant after work that evening, and delivered the checks collected that day. There was no discussion of reimbursed political contributions. Sternfeld received the checks, and considered that Chung had thereby fulfilled his commitment to the dinner. The \$25,000 check to the DNC which Chung had brought to the dinner the night before was returned to Wu.

12. In a Criminal Information filed with the United States District Court for the Central District of California on March 5, 1998 (No. CR 98-230), the United States charged Chung with tax evasion, bank fraud and two counts of conspiracy in connection with political conduit schemes, including conspiring to violate 2 U.S.C. §§ 441a and 441f in connection with making at least \$20,000 in illegal conduit contributions to Clinton/Gore '96. On March 16, 1998, Chung pled guilty to all the charges in the Information. According to the Chung Information, at Chung's direction, cash was withdrawn from two of Chung's personal bank accounts, and at Chung's direction, an employee delivered \$1,000 in cash to each of the twenty conduit contributors to reimburse them for the \$1,000 checks they had written to Clinton/Gore '96.

13. Chung's March 1998 guilty plea and related media attention served to put Clinton/Gore '96 on notice regarding the illegality of the Chung-related contributions. Consequently, Clinton/Gore '96's treasurer bore the responsibility for refunding or disgorging the contributions within thirty days of learning of the illegality. See 11 C.F.R. § 103.3(b)(2) and Advisory Opinion 1996-5. The Committee has not refunded or disgorged these contributions to date.

14. Clinton/Gore '96 asserts that in October 1997, it deposited \$22,000 into an escrow account based on public information suggesting that some of the contributions raised by Mr. Chung might have been reimbursed, and it represents that the funds have remained in that account since then. Respondents contend that the violations are mitigated by the fact that the Commission during the Title 26 audit directed Respondents to make a repayment of matching funds received as a result of the Chung contributions and ordered a disgorgement of other unrelated contributions but did not direct the disgorgement of the Chung contributions.

15. It is the Commission's position that Respondents' discussions with FEC auditors related to a discrepancy in the amount of matching funds that were subject to the repayment determination and did not address the refund or disgorgement requirement of the Chung contributions. The Commission determined to handle this issue in the enforcement process rather than the audit process.

V. In light of Respondents' activity as described above, the Commission found that there is probable cause to believe that the acceptance of \$20,000 in political contributions from Chung violated 2 U.S.C. §§ 441a(f) and 441f.

VI. 1. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Two Thousand dollars (\$2,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

2. Respondents will disgorge \$20,000 to the U.S. Treasury.

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble  
General Counsel

BY:

*Lois G. Lerzer*  
Lois G. Lerzer  
Associate General Counsel

Date

9/13/00

FOR THE RESPONDENTS:

*Lyn Utrecht*  
Lyn Utrecht  
Attorney

Date

8/24/00

EE-004-405-4355